

products liability context was under review by the Tennessee Supreme Court, and that this Court should await the decision by the Tennessee Supreme Court before ruling on this issue. Dkt. 283, at 23-25.

2. On September 28, 2023, after the parties' briefing on Extreme's Motion to Dismiss was complete, the Tennessee Supreme Court issued an opinion in the case of *Commercial Painting Company Inc. v. The Weitz Company, LLC et al.*, case No. W2019-02089-SC-R11-CV, --- S.W. 3d ---, 2023 WL 6304838 (September 28, 2023). A true and correct copy of the Tennessee Supreme Court's Opinion in the *Commercial Painting v. Weitz* case is attached hereto as Exhibit A (the "Opinion"). In pertinent part, the Opinion holds: "We hold the economic loss doctrine only applies in products liability cases and should not be extended to other claims." *Id.* at 18; *see also id.* at 1 ("We hold the economic loss doctrine only applies in products liability cases and should not be extended to other claims."). The Opinion reverses the Tennessee Court of Appeals opinion that Extreme's Motion relied upon in attacking the fraud claim. *Id.* at 18; *see* Dkt. 277, at 20; Dkt. 291 (Extreme Reply brief) at 23-24.

3. SNMP respectfully submits that because its fraud claim arises under Tennessee law, the Opinion is legal precedent directly relevant to this Court's determination of Extreme's Motion to Dismiss as it relates to SNMP's fraud claim.

Respectfully submitted this 12th day of October, 2023,

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